IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CIVIL NO. 3:04CV00130

MERCHANTS BONDING)
COMPANY,)
)
Plaintiff,)
	ORDER AND NOTICE TO PRO SE
vs.) INDIVIDUAL DEFENDANTS OF
) PLAINTIFF'S MOTION FOR SUMMARY
SANDMARC CONSTRUCTION,) JUDGMENT
INC., SANDRA PARAMORE, AND)
MARK PARAMORE,)
)
Defendants.)

THIS MATTER is before the Court on its own motion following the filing of Plaintiff Merchants Bonding Company's Motion for Summary Judgment (Doc. No. 26) filed October 6, 2005.

In accordance with <u>Roseboro v. Garrison</u>, 528 F.2d 309 (4th Cir. 1975), the Court advises Defendants Sandra Paramore and Mark Paramore (collectively, "Individual Defendants"), who are proceeding *pro se*, of the heavy burden that they carry in responding to Plaintiff's Motion for Summary Judgment.

Rule 56(e), Federal Rules of Civil Procedure, provides:

When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.

This language means that if the Individual Defendants have any evidence to offer to show that there is a genuine issue for trial, they must now present it to this Court in a form which would otherwise be admissible at trial, i.e., in the form of affidavits or unsworn declarations. An affidavit

is a written statement under oath; that is, a statement prepared in writing and sworn before a notary

public. An unsworn statement, made and signed under the penalty of perjury, may also be submitted.

Affidavits or statements must be presented by the Individual Defendants to this Court no later than

thirty (30) days from the date of this Order, or September 8, 2006, and must be filed in duplicate.

As stated by Rule 56(e), the Individual Defendants' failure to respond may result in Plaintiff being

granted the relief it seeks by way of summary judgment, that is, an award for damages on Plaintiff's

Claims as alleged in the Complaint.

NOW THEREFORE, IT IS ORDERED:

1. The pro se Individual Defendants Sandra Paramore and Mark Paramore shall have until

September 8, 2006, to file their response, including any evidence, to Plaintiff's Motion for Summary

Judgment.

2. The Clerk is directed to send copies of this Order and Notice to counsel for Plaintiff; and

to the pro se Individual Defendants, that is, Sandra Paramore, P.O. Box 1462, Matthews, North

Carolina, 28105, and Mark Paramore, P.O. Box 1462, Matthews, North Carolina, 28105.

SO ORDERED.

Signed: August 9, 2006

Frank D. Whitney

United States District Judge